

Attachment A to the
Interlocal Cooperation Agreement
Between Hays County and the City of Austin
For Subdivision Regulation within the Extraterritorial
Jurisdiction of the City of Austin

HAYS COUNTY
SUBDIVISION AND DEVELOPMENT
REGULATIONS

ARTICLE II

2. Definitions. All capitalized terms used in these Regulations shall have the meaning ascribed to them in this Article II.

2.1 Acre - A unit of area equal to 43,560 square feet. When calculating the acreage of any Lot the gross square footage within the Lot shall be used, provided any area within a private roadway easement or an easement for a Shared Access Driveway shall be excluded.

2.2 Applicant - An Owner or its authorized representative seeking approval of a proposed Subdivision pursuant to these Regulations.

2.3 Commissioners Court - The Commissioners Court of Hays County.

2.4 County - Hays County, Texas.

2.5 County Clerk - The County Clerk of Hays County.

2.6 Department - The Hays County Environmental Health Department. The current address of the Department is: 1251 Civic Center Loop, San Marcos, Texas, 78666.

2.7 Development - All land modification activity, including the construction of buildings, roads, paved storage areas, parking lots and other impervious structures or surfaces.

2.8 Director - The Director of the Hays County Environmental Health Department and any successor thereto.

2.9 Edwards Aquifer Recharge Zone - Any area identified as such by the Edwards Aquifer Rules. In the event an Applicant cannot determine with specificity the location of the boundary of the Edwards Aquifer Recharge Zone, the Applicant may submit appropriate maps and other evidence as may be requested by the Department for assistance in such determination from the Department. Any determination by the Department will affect only these Regulations and will not in any manner be binding upon the TCEQ. The Department may require the Applicant to obtain a determination from the TCEQ and any determination by the TCEQ regarding the location of the Recharge Zone will control for purposes of these Regulations. The intent of these Regulations is to coordinate applicable state and local regulations such that the definition of the Edwards Aquifer Recharge Zone under these Regulations shall be identical with the definition found within the Edwards Aquifer Rules.

2.10 Edwards Aquifer Rules - The Regulations promulgated by the Texas Commission on Environmental Quality relating to the Edwards Aquifer, currently set forth in Title 30 Texas Administrative Code Chapter 213, as amended from time to time.

2.11 Final Plat - A map of a proposed Subdivision of land prepared in a form suitable for filing of record with all necessary survey drawings, notes, information, affidavits, dedications and acceptances as required by these Regulations.

2.12 Lot - Any tract to be created by the division of the Original Tract pursuant to the proposed Subdivision application, including the remainder of the Original Tract.

2.13 Original Tract - The original tract of land owned by an Owner prior to the proposed Subdivision.

2.14 Owner - The owner of the land subject to the proposed Subdivision.

2.15 Permitted Street - As defined in Section 7.1 or as approved by the Hays County Commissioners Court for purposes of subdivision, access, or development.

2.16 Phased Development Agreement – An agreement proposed by the Developer for the timely and orderly development process of a large-scale subdivision. This agreement is subject to the review and approval of the Hays County Commissioners Court.

2.17 Preliminary Plan - A map of proposed Subdivision of land showing the general dimensions and boundaries of each Lot, the layout of the proposed streets, drainage improvements, utility infrastructure, if any, easements, and other information required by these Regulations.

2.18 Regulations - The Hays County Subdivision and Development Regulations.

2.19 Road Department - The Hays County Road Department.

2.20 Road Director - The Director of the Hays County Road Department.

2.21 Subdivision - The division of a tract of land situated within Hays County and outside the corporate limits of any municipality into two or more to lay out: (i) a subdivision of the tract, including an addition; (ii) lots; or (iii) streets, alleys, squares, parks, or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the streets, alleys, squares, parks, or other parts.

(a) A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance, or in a contract for deed or other executory contract to convey, or in a lease (other than agricultural and hunting leases), or by using any other method of a conveyance of an interest in land.

(b) A division of land shall be considered as relating to the laying out of streets, whether public or private, if:

(1) The division occurs prior to the later to occur of: two (2) years from the date of the completion of construction of any street onto which the Lot

has frontage or, in the case of public streets, the expiration of the performance or maintenance bond for any such street;

- (2) The division of land creates one or more Lots without practical, physical vehicular access onto a Permitted Street or with less than fifty feet (50') of direct frontage onto a Permitted Street or calls for driveways onto Permitted Streets that are spaced fewer than fifty feet (50') apart;
- (3) The division of land will affect drainage on, in or adjacent to a public street or any county drainage ditch, swale, culvert or other drainage facility; or
- (4) Other circumstances exist which, in the determination of the Director or the Road Director, cause such division of land to be related to the laying out of streets or related to drainage for any street or road to which any Lot has access. It is the intent of the Commissioners Court of Hays County that the term "subdivision" be interpreted to include all divisions of the land to the fullest extent permitted under the laws of the State of Texas.

2.22 TCEQ Regulated Development - Any development or construction activity that would constitute a Regulated Activity under the Edwards Aquifer Rules (see 30 TAC §213.3), but without regard to the aquifer over which the activity is conducted. If a Lot larger than five acres is restricted by plat note prohibiting (i) further resubdivision of the Lot into lots five acres in size or smaller and (ii) any Development other than the construction of a single-family residence or duplex and associated customary out buildings, such as a barn or garage apartment, then such Development on the Lot shall be considered excluded from the term "TCEQ Regulated Development" for purposes of these Regulations.

ARTICLE III

3. General Subdivision Requirements.

3.1 General Requirements. Any Owner who subdivides a tract of land shall:

- (a) Comply in all respects with these regulations; and,
- (b) Prepare and submit to the Commissioners Court an application for approval or registration of the proposed Subdivision in accordance with the terms and procedures set forth in these regulations.

3.2 Subdivision Approval Process. No Subdivision shall be permitted until the Owner has satisfied each of the following steps in the order indicated:

- (a) Approval of Preliminary Plan by the Commissioners Court.
- (b) Approval of Final Plat by the Commissioners Court.
- (c) Filing of Record Plat with the County Clerk, to be recorded in the Plat Records of the County.

3.3 Transmittal Materials. All submissions to the Commissioners Court pursuant to these Regulations, including amendments or supplemental materials, shall be delivered to the Department and shall be accompanied by a letter of transmittal indicating:

3.12 Water Availability Requirements. While these rules are intended to preserve and protect the water resources of Hays County, the Commissioners Court of Hays County does not make any warranty - express, implied or otherwise - that subdivisions that comply with these rules will be able to meet the water needs of those purchasing lots within the subdivision.

Applicability: This section shall apply to all individuals seeking plat approval from the Hays County Commissioners Court.

Exemptions:

- (a) All subdivisions of five lots or less in which all lots average at least 2 acres each.
- (b) All subdivisions of ten lots or less in which all lots are larger than ten acres.
- (c) All subdivisions in which all lots are restricted by plat note to be served only by rainwater collection or surface water sources.
- (d) All subdivisions of property for the purpose of conveyance to family members up to the second order of sanguinity in which all lots average at least 2 acres, and in which each lot is to be used only for their personal single family residence

Requirements:

1. Subdivisions to be served by individual private water wells:

- Applicants requesting plat approval shall construct at least two wells (one test well and one monitor well). Use of existing wells will be permitted if the wells fully meet these regulations. Well analyses shall be performed by a Texas licensed professional engineer or Texas licensed professional geoscientist, qualified to perform the hydrogeological testing, geophysical well logging and aquifer pump testing. The following information shall be provided to Commissioners Court for each well tested.
 - (a) Identify the hydrogeologic formation by well driller's log and approved geophysical logging methods. Provide a map and list of all known wells within 1,000 feet of the proposed subdivision boundaries (or a distance where measurable drawdown effects from the proposed subdivision well are expected). Each well is to be located by latitude and longitude.
 - (b) The Certification of Groundwater Availability For Platting Form as required by the TCEQ rules on Groundwater Availability Certification for Platting at 30 Tex. Admin. Code Section 230.3. The Department shall require an applicant to submit any engineering calculations, studies or other data

supporting the statements contained in the Certification of Groundwater Availability For Platting Form.

- Individuals marketing these subdivision lots shall provide each purchaser with a summary of all the above referenced data.

2. Subdivisions to be served by a new TCEQ public water supply system:

Applicants proposing to serve a subdivision through a new public water supply system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed subdivision will be provided with water service. The water engineering report shall at a minimum contain the following information:

- (a) A description of how water service will be provided to serve all platted lots, including identification of all water treatment, storage, pumping, transmission and distribution facilities and if any of the facilities will be placed in county rights-of-way. If the project is to be phased, the description must address all water facilities proposed to be utilized throughout full build-out of the subdivision.
- (b) An estimate of the amount of water demand throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out, including a statement describing the level of fire protection afforded to the proposed phase(s) of the subdivision.
- (c) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source.
- (d) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.
- (e) An estimated timetable for completion of all facilities.
- (f) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all water facilities throughout all phases of development shall be identified and included in the application.
- (g) For subdivisions subject to the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (h) If water service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the

Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.

- (i) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

3. Subdivisions to be served by an existing TCEQ-permitted public water supply:

If wholesale or retail water service is to be provided by an existing water utility or other existing water service provider, an applicant shall submit a written statement from the existing provider containing the following:

- (a) A description of the authority of the existing provider to serve the proposed phase of development.
- (b) A statement as to whether the existing provider has available capacity to serve the proposed phase of subdivision, including a statement describing the level of fire protection afforded to the proposed phase(s) of the subdivision.
- (c) A description of the type of water service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.
- (d) A statement as to whether there are plans for alternative or backup water service; if so, an identification of the alternative or backup water source.
- (e) Identification of any anticipated water supply or service agreements that will need to be executed prior to the provision of service.
- (f) A description of any anticipated new water facility improvements that the existing provider will be required to construct to serve the subdivision and a timetable for completion of the improvements and if it is anticipated that county rights-of-way will be utilized to locate any water improvements.
- (g) A description of how water service will be provided to serve all platted lots, including identification of all water treatment, storage, pumping, transmission and distribution facilities and if any of the facilities will be placed in county rights-of-way. If the project is to be phased, the description must address all water facilities proposed to be utilized throughout full build-out of the subdivision.
- (h) An estimated timetable for completion of all facilities.

- (i) A map showing the proposed location of all water facilities throughout all phases of development as well as the proposed water service area, including any TCEQ-approved service area boundaries of a water service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.
- (j) For subdivisions that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules are met.
- (k) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

3.13 Wastewater Service Availability Requirements.

Applicability: This section shall apply to all individuals seeking plat approval from the Hays County Commissioners Court, no exemptions, as set forth in Article IV, from these requirements shall be allowed.

1. Subdivisions to be served by a new TCEQ-permitted wastewater system:

Applicants proposing to serve a subdivision through a new wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed subdivision will be provided with wastewater service. The wastewater engineering report shall at a minimum contain the following information:

- (a) A description of how wastewater service will be provided to serve all platted lots, including identification of all wastewater collection, treatment, storage, pumping and conveyance facilities and if it is anticipated that any county rights-of-way will be used to locate any wastewater facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the subdivision.
- (b) An estimate of the amount of wastewater that will be treated and managed throughout all phases of development supported by engineering calculations based on the anticipated timetable for full build-out.
- (c) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.
- (d) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service

provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.

- (e) Include an estimated timetable for completion of facilities.
- (f) Identification of the proposed method of wastewater effluent disposal or re-use and a listing of any TCEQ permits that will be needed to implement the proposed wastewater disposal or re-use.
- (g) Based on the information available at the time the application is submitted, the anticipated owner(s) and operator(s) of all wastewater facilities throughout all phases of development shall be identified and included in the application.
- (h) For subdivisions subject to the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (i) If wastewater service is to be provided by a municipal utility district or other special purpose district that has not been created as of the filing of the Preliminary Plan, a detailed description of the proposed district boundaries, a timetable for creation of the district, and identification of the proposed organization of the district.
- (j) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide wastewater service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

2. Subdivisions to be served by an existing TCEQ-permitted wastewater system:

Applicants proposing to serve a subdivision through an existing wastewater system shall submit an engineering report sealed by a Texas licensed professional engineer describing how the proposed subdivision will be provided with wastewater service. The wastewater engineering report shall at a minimum contain the following information:

- (a) A description of the authority of the existing provider to serve the proposed phase of development.
- (b) A statement as to whether the existing provider has available capacity to serve the proposed phase of subdivision.
- (c) A description of the type of wastewater service to be provided (wholesale or retail) and a timetable for the providing of such service to the proposed development.

- (d) A statement as to whether there are plans for alternative or backup wastewater service; if so, an identification of the alternative or backup wastewater source.
- (e) Identification of any anticipated wastewater service agreements that will need to be executed prior to the provision of service.
- (f) A description of how wastewater service will be provided to serve all platted lots, including identification of all wastewater collection, treatment, storage, pumping and conveyance facilities and if it is anticipated that any county rights-of-way will be used to locate any wastewater facilities. If the project is to be phased, the description must address all wastewater facilities proposed to be utilized throughout full build-out of the subdivision.
- (g) An estimated timetable for completion of the improvements.
- (h) A map showing the location of all wastewater facilities throughout all phases of development as well as the proposed wastewater service area, including any TCEQ-approved service area boundaries of a wastewater service provider operating under a Certificate of Convenience and Necessity (CCN) within the boundaries of the proposed subdivision.
- (i) For subdivisions that are regulated by the Edwards Aquifer Authority or the TCEQ Chapter 213 Edwards Aquifer rules, a statement acknowledging that all applicable requirements of such rules will be met.
- (j) Prior to the approval of the final plat the applicant shall supply a letter to the Department from the utility provider certifying that they have the authority to provide water service; that there will be sufficient capacity to serve all phases of the proposed development; and that all required agreements have been executed.

3. Subdivisions to be served by On-Site Sewage Facilities:

Applicants proposing to serve a subdivision by On-Site Sewage Facilities shall submit a Facility Planning Report prepared by a Texas licensed professional engineer or registered sanitarian describing how the proposed subdivision will be provided with wastewater service. The Facility Planning Report shall at a minimum contain the information required by section 5.1(d)(4) and must meet the requirements of Article IX.

3.14 Notification of Affected Political Subdivisions

Applicability: This section shall apply to all individuals seeking plat approval from the Hays County Commissioners Court, no exemptions, as set forth in Article IV, from these requirements shall be allowed.

1. For a proposed subdivision, as part of its technical review of a completed application the Department shall identify all political subdivisions affected by the proposed subdivision for which it has available records. The list of affected political subdivisions shall at a minimum

include any political subdivision within whose boundaries the proposed subdivision is located. If the proposed subdivision is not located within the boundaries of an emergency services or management district, a school district, a water utility district, or a wastewater utility district, the nearest such district shall be included in the list of affected political subdivisions.

2. Within ten days of the filing of the Preliminary Plan and the Department's providing the applicant with a list of affected political subdivisions, the applicant shall provide written notice of the proposed subdivision to each of the affected political subdivisions. Within ten days of providing such notice, the applicant shall provide copies of the notification and proof of notice delivery to the Department. The written notice must include, at the minimum, the following information:

- A map clearly showing the boundaries and general location of the proposed subdivision, and major roadways in the vicinity.
- A general description of the nature of the proposed subdivision, including identification of the applicant for the subdivision plat.
- The anticipated timetable for build-out of the subdivision and any anticipated subsequent phases of development, including an estimated population for each phase and at full buildout.
- A statement of how water, wastewater, emergency services, and electric service will be provided, including identification of all such proposed utility providers.

ARTICLE IV

4. Exemptions

4.1 Exempted Subdivisions.

- a) Exemptions are allowed as defined by Local Government Code 232.0015.
- b) Exemptions must have direct access (fee simple) to a permitted road.

4.2 Registration. An Owner whose subdivision is exempt from the platting requirements of these Regulations shall register the division with the County Clerk and submit the following to the County Clerk:

- (a) A duplicate copy of the recorded conveyance instrument, with legible metes and bounds description attached thereto;

- (b) A survey or sketch (which may be on tax parcel maps or other form approved by the Department) showing the boundaries of the Lots, adjacent roads and adjacent property owners;
- (c) An executed registration form in the form promulgated by the Department which shall require the Owner to acknowledge that all Lots remain subject to the on-site wastewater rules and development permit requirements of the County.
- (d) An affidavit stating that the owner/subdivider of the land acknowledges that any change to the exemption will require the platting of the property through the Hays County Commissioners Court.

ARTICLE V

5. Preliminary Plan.

5.1 Information. A proposed Preliminary Plan shall include the following:

- (a) General Information.
 - (1) Name of the proposed Subdivision, which shall not be the same or deceptively similar to any other subdivision within the County unless the subdivision is an extension of a pre-existing, contiguous subdivision.
 - (2) The boundary lines and total acreage of the Original Tract and the Subdivision.
 - (3) A note stating the total number of Lots within the proposed subdivision and the average size of Lots, and the total number of Lots within the following size categories: 10 acres or larger, larger than 5.0 acres and smaller than 10 acres, 2.00 acres or larger up to 5.00 acres, larger than 1.00 acre and smaller than 2.0 acres and smaller than 1.00 acre.
 - (4) Approximate acreage and dimensions of each Lot.
 - (5) The location of any proposed parks, squares, greenbelts, schools or other public use facilities.
 - (6) Names of adjoining subdivisions or owners of property contiguous to the proposed Subdivision.
 - (7) Name and address of the surveyor and/or engineer.
 - (8) Name and address of the Owner, and developer or applicant if not the Owner.

- (9) Area map showing general location of Subdivision in relation to major roads, towns, cities or topographic features.
 - (10) North arrow, scale and date. The scale shall not exceed 1" = 200'.
 - (11) Boundary lines of any incorporated city and the limit of the extraterritorial jurisdiction of any city.
 - (12) The location of school district boundaries and a statement clearly indicating in which school district(s) the Subdivision is located. In the event any Lot lies within more than one school district then the plat shall clearly state the number of acres within the Lot that lies within each school district.
- (b) Flood Plain and Drainage Information.
- (1) Elevation contours at no greater than ten-foot (10') intervals, based on NGVD '29 datum.
 - (2) All Special Flood Hazard Areas identified by the most current flood Insurance Rate Maps published by the Federal Emergency Management Agency.
 - (3) For each Lot containing 100-year floodplain, sufficient additional contours to identify and delineate the 100-year floodplain and regulatory floodway, if any. If base flood elevations have not already been established, they shall be established by a method satisfactory to the Director.
 - (4) For each subdivision containing 100-year floodplain, at least one benchmark showing NGVD '29 elevation, as well as latitude and longitude.
 - (5) A drainage plan depicting the anticipated flow of all drainage onto and from the subdivision and showing all major topographic features on or adjacent to the property including all water courses, 100 year floodplain boundaries, ravines, bridges and culverts.
 - (6) The location and size of all proposed drainage structures, including on-site retention or detention ponds and easements and the impact of lot and street layouts on drainage.
 - (7) General depiction of the boundary lines of the Edwards Aquifer Recharge Zone, or the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer (as defined in the Rules of Hays County for On-Site Sewage Facilities), if affecting the property, and a statement certified by the surveyor or engineer under his or her professional seal that, to the

best of his or her knowledge, the plat accurately reflects the general location (or absence) of the Edwards Aquifer Recharge Zone or the Contributing Zone of the Barton Springs Segment of the Edwards Aquifer.

- (8) Depiction of all streams, rivers, ponds, lakes, other surface water features or any Sensitive Features (as defined by the *Texas Commission on Environmental Quality* in 30 Texas Administrative Code §213.3) and a statement certified by the surveyor or engineer under his or her professional seal that, to the best of his or her knowledge, the plat accurately reflects the general location (or absence) of all such features in accordance with the terms of these Regulations.

(c) Street and Right of Way Information.

- (1) Location, length and right-of-way widths of all proposed streets and a depiction of how all proposed streets shall connect with previously dedicated, platted or planned streets within the vicinity of the Subdivision.
- (2) Location, size and proposed use of all proposed access easements, or Shared Access Driveways, if any.
- (3) A statement indicating whether the Applicant shall seek County maintenance of the roads or approval of a homeowner's association for road maintenance or designation of roads as private roads.
- (4) The number of feet of frontage of each Lot onto a Permitted Street.
- (5) A report calculating the Average Daily Traffic of all roadways prepared in accordance with Section 7.3 below, unless exempted pursuant to Section 7.3(b).
- (6) A designation of the classification of each road or street to be constructed or existing streets abutting any Lot (Country Lane, Local Street, Minor Collector, Major Collector, Minor Arterial or Major Arterial), as determined in accordance with Section 7.3 below.
- (7) Proposed location of all depth gauges, as required under Article 10, at all road crossings where the 100 year frequency flow or lesser frequency storm event is anticipated to flow over the road surface and any proposed gates or warning devices. Note: the Commissioners Court may require gates or warning devices at such locations.

(d) Water, Wastewater and Utilities Information.

- (1) Designation of the entity supplying electric, phone and gas utilities to Lots, or a statement that such utility is not available.
- (2) The location of all proposed utility easements and/or infrastructure, including water well sanitary easements, if applicable.
- (3) The water engineering report required by Section 3.12, Subsection 2 and the wastewater engineering report required by Section 3.13, Subsection 1.
- (4) Certification that all Lots have been designed in compliance with the Rules of Hays County for On-Site Sewage Facilities, together with all planning and evaluation materials required to determine Lot sizing under the Hays County On-Site Sewage Rules and any request for a variance under the Rules of Hays County for On-Site Sewage Facilities.

5.2 Street Design. A proposed Preliminary Plan shall satisfy the requirements of Article VII relating to design of streets and shall contain a written certification from a Registered Professional Engineer that the location and dimensions of streets as set forth and laid out on the Preliminary Plan are in accordance with these Regulations. This information is not the sealed Construction of Roads and Drainage Improvements plans that are required after approval of preliminary plan.

5.3 Drainage. A proposed preliminary plan shall satisfy the requirements of Article X relating to Drainage and shall contain a written certification from a Registered Professional Engineer stating that the location and approximate sizes of the drainage structure set forth in the preliminary plan are in accordance with the Department's Drainage Design Criteria.

ARTICLE VII

7.2 Dedication to Public. Any dedication to the public shall be accomplished either by deed conveying a fee simple interest or by a dedication on the plat conveying a perpetual right of way easement in the property to the County for public use. No dedication shall be effective until the Record Plat is recorded. In no event shall any private lot extend into a dedicated roadway.

7.3 Design of Public Improvements. All improvements shall be designed and installed so as to provide, to the maximum extent feasible, a logical system of utilities, drainage and streets and to permit continuity of improvements to adjacent properties.

- (a) Design Criteria and Construction Standards for Streets. The classification and construction standards for all streets shall be determined according to the Average Daily Traffic anticipated for the streets. The standards for paved streets are summarized on Table 7.3a. The Director shall promulgate rules for calculating Average Daily Traffic, provided that all calculations of Average Daily Traffic shall be based on the maximum number of lots that would be permitted in the Subdivision under the Rules of Hays County for On-Site Sewage Facilities, unless the number of future lots is limited by approved plat note, in which case Average Daily Traffic shall be calculated

based on the maximum number of lots permitted under such restrictive covenants.

- (b) Incentive for Lots Larger than Five Acres. As an incentive to developers to create lots larger than five acres and to reduce their associated development costs, Country Lane Streets may be constructed, without calculation of the Average Daily Traffic, if all Lots with frontage or access onto the street are (i) larger than five acres in size, (ii) restricted by a plat note limiting development to one single family residence per Lot and prohibiting TCEQ Regulated Development, and (iii) the application is approved by the Road Director.
- (c) Incentives for Bicycle Paths and Lanes. If portions of a Local Street or Minor Collector are set aside and appropriately designated for the use of bicycles (or a separate bike path is constructed parallel to the street), then the amount of right of way dedicated to such bicycle use shall be credited against the width of required shoulders and the Road Director may reduce the estimated Average Daily Traffic per Lot in determining the design criteria for the street served by the bicycle path/lane, in an amount determined appropriate by the Road Director.
- (d) Clearance of Right of Way. Upon request by the Owner, the Road Director shall, to the extent it is safe and prudent to do so, permit preservation of trees of greater than 10" in diameter, measured one foot from the ground (or the replanting of trees by the Owner), within rights of way of streets classified as Country Lanes, Local Streets and Minor Collectors, with greater preservation of trees permitted along streets with the lower design speed. The Owner shall be responsible for affixing reflectors or other safety devices to any trees preserved within the right of way.

7.4 Access to Permitted Streets, Flag Lots. Except with respect to Lots served by Shared Access Driveways, each Lot shall have the minimum direct frontage onto a Permitted Street set forth below and Driveways shall be spaced no closer than the minimum space intervals set forth below, depending on the classification of road onto which the Lot has frontage and the driveway has access:

<u>Road Classification</u>	<u>Minimum Lot Frontage</u>	<u>Direct Minimum Driveway Spacing</u>
Country Lane	30'	50'
Local Street	50'	50'
Minor Collector	100'	75'
Major Collector	150'	120'
Minor Arterial	150'	120'
Major Arterial	150'	120'

- (a) Incentive for Qualifying Lots. Qualifying Lots will be exempt from the minimum lot frontage and driveway spacing requirements specified above if approved by the Road Director and Commissioners Court with due regard to

safety concerns. A Qualifying Lot is any Lot that (i) is restricted by plat note to development of a single family residence, (ii) has direct access onto a Permitted Street and (iii) satisfies the minimum Lot size requirements set forth in the Rules of Hays County for On-Site Sewage Facilities.

- (b) Flag Lots. Flag lots shall generally not be permitted, except if approved by the Commissioners Court as consistent with the intent and spirit of these Regulations. The Director shall advise the Commissioners Court if a proposed Lot constitutes a "flag lot" and the Commissioners Court shall, in reviewing all the circumstances, make the final determination.

7.5 Commercial Driveways. Driveways serving commercial development shall be spaced at the minimum intervals of one hundred fifty feet (150') as set forth in Table 7.3a. Joint-use driveways may be utilized in situations that limit the number of driveway access permits that are issued by either the State of Texas or Hays County to a public road, or where safety concerns provide a satisfactory explanation for its use.

7.6 Shared Access Driveways. Up to one (1) Lot without independent access to a Permitted Street may obtain access to a Permitted Street by means of a Shared Access Driveway if approved by the Commissioners Court. An additional two (2) Lots having independent access to a Permitted Street may also share the use of the Shared Access Driveway. Shared Access Driveways are intended as a means to provide flexibility in the development process, preserve the rural character of the land and avoid excessive infrastructure costs when such costs would provide little or no social benefit. Shared Access Driveways are not intended to serve as a substitute for interior roads. Excessive use of Shared Access Driveways will not be permitted. Any application proposing shared access driveways shall also satisfy the following requirements:

- (a) A plat note must be conspicuously displayed on the plat stating:
 - i. All lots served by a Shared Access Driveway are restricted to one singlefamily residence per lot and if any other Development of a Dwelling Unit occurs on any of the Lots obtaining access through the Shared Access Driveway, then such new Dwelling Unit must be constructed on a separately platted lot with direct frontage onto and physical access to a Permitted Street prior to construction of the Dwelling Unit. A duplex will not be considered a single family residence for purposed of this subparagraph.
 - ii. The homeowners of the Single Family Residences obtaining access through the Shared Access Driveway shall be solely responsible for all maintenance of the driveway, including maintaining any drainage structures associated with the driveway. The driveway must be maintained at all times in a condition that will permit unencumbered vehicular access by emergency vehicles.
- (b) Each of the Lots sharing the use of the Shared Access Driveway shall hold equal, indivisible and unrestricted rights in the Shared Access Driveway,

which rights shall be established by recorded easement and the easement shall run with the land of each of the benefited Lots. The easement instrument shall clearly state each Lot's pro rata responsibility with respect to future maintenance or repairs of the Shared Access Driveway. (Shared Access Driveway Agreement)

- (c) The Shared Access Driveway shall be no longer than one quarter mile in length and must have a minimum distance of (a) 200 feet from any other driveway entering onto the Permitted Street and (b) 500 feet from any other Shared Access Driveway.
- (d) The postal address of each of the Lots shall be based on the Permitted Street on which the Shared Access Driveway gains access and the mailboxes for each of the Lots shall be located together along the right of way of the Permitted Street.
- (e) Up to three (3) Lots not having independent access to a Permitted Street may share a Shared Access Driveway with up to two (2) Lots having independent access to a Permitted Street if all other requirements of this Section 7.6 are met and all Lots using or adjacent to the driveway are larger than five acres in size and restricted by Plat note limiting development to one single family residence per Lot and prohibiting **TCEQ** Regulated Development (as defined in Article II).

7.7 Publicly Maintained and Dedicated Paved Streets. Paved streets dedicated to the public shall be required in all Subdivisions except those satisfying the criteria for private streets, as set forth below. All such paved streets shall be designed and constructed in accordance with the specifications set forth in the Hays County Road Design and Construction Specifications (aka, Appendices III & IV). The boundary lines of all Lots fronting onto a publicly dedicated right of way shall be contiguous with the boundary of the right of way.

7.8 Privately Maintained Paved Streets. All private streets shall be designed and constructed in accordance with the standards specified in the Hays County Road Design and Construction Specifications (Appendices III & IV) for paved, publicly dedicated streets. Private streets shall be permitted only within a Subdivision satisfying each of the following criteria:

- (a) All Lots within the Subdivision shall have an average size greater than 5 acres in size or the Commissioners Court shall have entered into an approved Development Agreement with the Owner regarding the development of a master-planned community of no fewer than fifty (50) residential lots;
- (b) The following note shall be conspicuously displayed on the Plat:
[Owner], by filing this Plat of Record, and all future owners of property within this Subdivision, by purchasing such property, acknowledge and agree that they Hays County shall have no obligation whatsoever to repair or

accept maintenance of the roads shown on this subdivision until and unless [Owner] and/or the _____ Homeowners Association has improved the roadways to the then current standards required by Hays County and the roads have been accepted for maintenance by formal, written action of the County Commissioners Court and the roadway, with all required right of way, has been dedicated by the owners thereof, and accepted by the County, as a public street. [Owner] and all future owners of property within this Subdivision shall look solely to the _____ Homeowners Association for future maintenance and repair of the roads and streets shown on this Subdivision; and

- (c) Restrictive covenants establishing a homeowners association, shall be placed on record concurrently with the recording of the Record Plat.

7.9 Permit Required for Construction in Right of Way. No driveway or utility construction, mail boxes, landscaping or any other encroachment into public right-of-way or easements shall be allowed without first obtaining a permit from the Road Department.

ARTICLE VIII

8. Acceptance of Road Maintenance and Development Permits.

8.1 Owner's Maintenance Responsibility. The Owner shall remain responsible for all maintenance and repair of streets within a subdivision until the Commissioners Court, by formal written action or Minute Order, accepts the obligation to maintain and repair such roads. The Commissioners Court's decision to approve a Final Plat or dedication of the right of way for a street shall not be deemed to constitute acceptance of the streets for maintenance.

8.2 County Acceptance of Maintenance. The County shall accept a road or street for maintenance when the following conditions have been satisfied:

- (a) The street has been constructed as a Public Permitted Street in accordance with these Regulations, the Record Plat for the road or street has been recorded and the associated right of way has been dedicated to the public pursuant to these Regulations;
- (b) The Owner has submitted a written request to the Department. If the Owner is no longer available, i.e. has ceased to transact any business or, in the case of an individual, has died, any person owning property with frontage or access onto the street may submit the written request;
- (c) The design engineer has submitted a concurrence letter of substantial completion and compliance, and a set of as-built plans incorporating all changes made during construction, signed and sealed by the engineer of record;

- (d) The Hays County Road Director has performed and approved all required inspections and tests at the completion of each phase of construction of the street, including plasticity index, sub-base and base, tests for compacted density, depth of base and distribution of asphalt (it is the responsibility of the developer to coordinate all inspections and laboratory tests with the Hays County Road Director and not to proceed with construction until proper inspections and tests have been obtained, as required by the Hays County Road Director). Any laboratory tests and test holes shall be at the expense of the developer. In no event will any base be placed on the street until the subgrade has been approved in writing by the Road Director;
- (e) The Hays County Road Director has inspected the street no earlier than 30 days prior to the Commissioners Court's acceptance of the maintenance obligation and has submitted to the Commissioners Court an Inspection Report stating that:
 - (1) the street, in its current condition and with no repairs, upgrades or improvements, is in compliance with the Regulations and all other guidelines in effect at the time of the inspection;
 - (2) the requirements of Section 10.4 below, regarding construction of drainage structures and driveway drain pipes, has been satisfied; and
 - (3) the Hays County Road Director recommends acceptance of the street by the Commissioners Court.
- (f) One of the following has occurred:
 - (i) Two (2) years has expired from the date that all streets, drainage (including drain pipes) and other public improvements in the subdivision were first completed and inspected by the Road Department, or
 - (ii) The Owner has posted with the Department cash, bond or a letter of credit in a form approved by the Department (a "Maintenance Bond") to secure the proper construction and maintenance of the roads prior to County acceptance thereof in an amount equal to 10% of the construction costs of the streets and drainage improvements for a term of two (2) years following acceptance by the County. The Maintenance Bond will also secure the Owner's compliance with Section 6.6.(d) above. Before release of the Maintenance Bond, the Road Director shall again inspect the roads or streets and the Owner shall remedy all deficiencies prior to release of the Maintenance Bond. If the deficiencies are not promptly remedied, the County shall make the repairs and draw on the Maintenance Bond for payment. Note: A Maintenance Bond must be posted, regardless of the date the streets or roads are accepted by the County, for all streets or roads completed prior to the recording of the Record Plat.

8.3 Performance Bond. This section applies if the Owner desires to submit for approval a Final Plat prior to completion of construction of all Permitted Streets and inspection by the Road Director. The Owner shall continue to be responsible for all other requirements set forth in Section 8.2 above.

- (a) With the permission of the Commissioners Court, the Owner shall post a good and sufficient surety bond or letter of credit in an amount equal to 100% of the estimated construction costs of the roads and drainage improvements. The Commissioners Court must individually approve each application to post such a performance bond and the performance bond shall remain in effect until the roads and all associated drainage improvements have been accepted by the County for maintenance pursuant to Section 8.2 above. (also Ref. Section 10.4)
- (b) Before release of the performance bond, the Road Department shall inspect the roads and the Owner shall remedy all deficiencies prior to release of the security. If the deficiencies are not properly remedied, the County shall draw on the security to make the necessary repairs.
- (c) If the roads and drainage improvements are meant for public maintenance, at the time of the release of the construction security, a maintenance bond in the amount of 10% of the actual cost shall be posted with the County for a period of two (2) years.

8.4 Installation of Utility Lines. All utility lines planned to be constructed under a paved street shall be installed before the street is paved. All utility lines installed under an existing paved street shall be bored to a point at least 4 feet beyond the edge of pavement and must be approved in advance by the Road Director, unless otherwise approved by the Commissioners Court.

8.5 Temporary Construction Erosion Controls. All construction of roads or streets, whether public or private, shall comply with the Temporary Construction Erosion Controls Manual attached to these Regulations as Appendix IV.

8.6 Construction of Roads Prior to Final Plat. Upon approval of a Preliminary Plan, an Owner may apply to the Road Director to commence construction of roads, streets, utilities and drainage structures within the right of way. This application will be granted upon the Road Director's review and approval of the Construction Plans and other materials required in Sections 6.4 or 6.5, as applicable. An Owner wishing to construct road, street or other improvements prior to the approval of a Final Plat shall be required to post a Performance Bond upon approval of the Final Plat satisfying the requirements of Section 8.2(e)(ii) and 8.3(a) above.

8.7 Development Permits. No Development Permit for a Lot shall be issued until the subgrade of the Permitted Street serving the Lot has been completed and, if applicable, installation of all underground utilities.

ARTICLE IX

9. Water and Wastewater Standards.

9.1 Compliance with On-Site Sewage Rules. All Lots must be designed in compliance with the Rules of Hays County for On-Site Sewage Facilities.

ARTICLE X

10. Drainage and Flood Control.

10.1 Stormwater Runoff Discharges. Stormwater runoff from any proposed development may not be released onto adjacent property owners or into any county drainage ditch, swale, easement, culvert or other facility or any such drainage facility associated with an existing road, whether public or private, at a rate greater than when the property was in its undeveloped condition. Discharge calculations shall be based on fully developed conditions. The Director may require the submission of additional materials at the time of the Preliminary or Final Plat application to assure the proposed subdivision will be in compliance with this Section.

- (a) Incentive for Lots Larger Than Five Acres. If all Lots in a subdivision are larger than five acres and restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II), then such subdivision shall be deemed to be in compliance with this Section 10.1 and no additional materials need be submitted to demonstrate compliance to the Director.

10.2 Sizing of Drainage Facilities. All drainage facilities for residential (single family or duplex residences) subdivisions including ditches, drainage pipes, street curbs, gutter inlets, driveway or road culverts, and storm sewers shall be designed to intercept and transport runoff from the following frequency storm, based upon the classification of Permitted Street affected by the drainage structure, as set forth below.

<u>Classification of Street Affected by Drainage</u>	<u>Structure Storm Frequency</u>
Country Lane	5 year
Local Street	10 year
Minor Collector	15 year
Major Collector	25 year
Minor Arterial	25 year
Major Arterial	25 year

- (a) Incentive for Lots Larger than Five Acres. Notwithstanding the preceding requirements, all drainage structures affecting Local Streets or Minor Collectors may be designed based on a five-year storm frequency if all Lots in the subdivision are restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated

Development (as defined in Article II) and the design of such drainage structures is approved by the Director. All drainage construction will, however, be subject to the remainder of this Article 10.

- (b) Drainage Facilities for Other Subdivisions. For all drainage facilities serving Lots not intended for use as single family or duplex development, drainage and all drainage facilities shall be designed by a Registered Professional Engineer according to 25-year storm event calculations.

10.3 Conveyance of 100-Year Storm Frequency Flows. In addition to 10.2 above, the drainage system shall be designed to convey all channelized or concentrated flows from a 100 year frequency storm within defined right-of-way or drainage easements, which shall not be narrower than twenty feet (20') in width.

10.4 Completion of Drainage System Prior to Acceptance of Road Maintenance. No streets will be accepted for maintenance by the County until all drainage structures, including drain pipes for all driveways constructed as of the acceptance date, have been (i) installed by the Owner or occupant(s) of the Lot(s) and (ii) inspected and approved by the Road Department.

10.5 Maximum Headwater Elevation for Drainage Crossings. All roads, culverts underneath roads, and bridges shall be designed so that stormwater runoff from the frequency storm event designated below crossing such road or bridge shall not produce a headwater elevation at the roadway greater than 6 inches above the roadway crown elevation, based upon the classification of Permitted Street affected by the drainage structure:

<u>Classification of Street</u> <u>Affected by Drainage</u>	<u>Structure Storm Frequency</u>
Country Lane	25 year
Local Street	25 year
Minor Collector	25 year
Major Collector	100 year
Minor Arterial	100 year
Major Arterial	100 year

- (a) Incentive for Lots Larger than Five Acres. Notwithstanding the preceding requirements, all Country Lanes, Local Streets or Minor Collectors, and culverts underneath such roads, may be designed based on a ten-year storm frequency if all Lots in the subdivision are restricted by plat note limiting future development to one single family residence per Lot and prohibiting TCEQ Regulated Development (as defined in Article II) and the design of such drainage structures is approved by the Director. All drainage construction will, however, be subject to the remainder of this Article 10. This incentive shall not apply to bridges.
- (b) A permanent depth gauge shall be placed at all road crossings where the 100 year frequency flow or lesser frequency is anticipated to flow over the road

surface. The Commissioners Court may require installation of gates or warning devices at all or some of such locations.

- (c) All roads and streets shall be designed and constructed to withstand the impact of water being impounded adjacent to and flowing over the road or street.
- (d) This Section 10.5 does not apply to driveway culverts.

10.6 Drainage Design Methodology. Computations by a registered professional engineer to support all drainage designs shall be submitted to the Department for review. The methodologies shall be based upon commonly accepted engineering practices used within the area.

- (a) All computations of flood plains, culverts, channels, etc. shall be based on fully developed upstream conditions.
- (b) A drainage area of 64 acres or greater is required within a contributing watershed to create a "flood plain." For areas of flow with less than 64 acres of contributing area, no flood plain shall be defined; however, any concentrated flow necessitates the dedication of a drainage easement.

10.7 Easements.

- (a) All flood plains and concentrated flows for the 100 year storm frequency shall be contained within a dedicated drainage easement or right-of-way, however, studied floodplains may be defined with base flood elevations and established regulatory floodway boundaries without the use of drainage easements.
- (b) Development will be allowed within the flood plain or within a drainage easement only on a case by case basis, and in any event any structures constructed within the flood plain must be above the base floor elevation. No development whatsoever will be permitted in the floodway.

ARTICLE XI

11. Revision and Cancellation.

11.1 Revision. The Owner of an existing lot or lots in a platted subdivision may submit an application to revise the portion of the existing plat affecting such Lots, unless prohibited by restrictive covenants or plat notes filed pursuant to these Regulations, by submitting the following to the Department:

- (a) Sixteen copies of the proposed revised plat, conforming in all respects to the requirements of these Regulations; or, if submitted by a private homeowner

who is not a developer in the subdivision, other materials acceptable to the Director clearly setting forth the desired amendment;

- (b) A statement giving the reason for the proposed revision;
- (c) A filing fee equal to \$200.00, plus \$10.00 per affected lot.
- (d) Any revision for the purposes of adjusting lot lines, or the consolidation of lots may with the approval of the Precinct Commissioner be subject to Final approval only.

11.2 Review Period. The Department shall have the review period established in Sections 3.7 and 3.8 above.

11.3 Public Notice. After the date the Department posts the resubdivision for consideration by the Commissioners Court, but before the application is considered by the Court, the County shall have delivered or published all notices required by Local Government Code Section 232.009, including:

- (a) A notarized publisher's affidavit demonstrating publication of the application in a newspaper of general circulation in the area affected by the resubdivision, including a statement of the time and place at which the Commissioners Court will meet to consider the application and hear protests, if any. As required by Local Government Code Section 232.009, the notice shall be published three (3) times during the period beginning on the 30th day and ending on the 7th day prior to the date of the Commissioners Court hearing; and
- (b) Delivery of notice of the application to all owners within the original subdivision by certified or registered mail, return receipt requested.
- (c) Any revision for the purposes of lot-line adjustments or the consolidation of lots shall be exempt from the notification requirements.